

## REMARKS/ARGUMENTS

Claims 11 – 20, 25, 31, 34, 37, 44, and 46 – 51 are presented for consideration upon entry of this Amendment. Claims 1 – 10, 21 – 24, 26 – 30, 32, 33, 35, 36, 38 – 43, and 45 are canceled. Claims 48-51 are new. For at least the reasons set forth below, Applicants respectfully submit that claims 11 – 20, 25, 31, 34, 37, 44, 46 – 51 are patentable over the cited art.

Applicants gratefully appreciate the courtesies extended by the Examiner during the telephone interview conducted on February 11, 2009. In accordance with that interview, Applicants submit the following.

Claims 11 – 20, 44, 46, and 47 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S Patent No. 4,361,150 to Voss (“Voss”) in view of U.S Patent No. 5,453,085 to Schoelling (“Schoelling”). For at least the reasons set forth below, Applicants submit that claims 11 – 20, 44, 46, and 47 are not disclosed or suggested by the cited combination of Voss and Schoelling.

Independent claim 11 recites, in part, “a shoulder region adjacent to said tapered main section, a gripping region adjacent to said shoulder region, and a flared region adjacent to said gripping region opposite said shoulder region, said barrel decreasing in diameter in said shoulder region from said tapered main section to said gripping region so that said gripping region has a smaller diameter than said tapered main section.”

As shown in Figure 1, Voss clearly fails to disclose or suggest that a shoulder region is adjacent to the tapered main section, a gripping region is adjacent to the shoulder region, and a flared region is adjacent to the gripping region opposite the shoulder region, or that the barrel decreases in diameter in the shoulder region from the tapered main section to the gripping region so that the gripping region has a smaller diameter than the tapered main section, as recited by claim 11. In contrast, Voss provides that “[t]he gripper ring 18 which is formed at the trailing end of applicator tube 12 is in the form of an integral flange which projects outwardly in a radial direction from

the trailing extremity of the tube 12 and takes the form of a thin, extremely wide plate... (emphasis added)" (col. 5, lines 4-8).

The Office Action asserts that the finger grip and plunger of Schoelling provide the predictable result of creating a clearly defined finger grip area and it would therefore be obvious to one of ordinary skill in the art to provide the tampon applicator of Voss with the finger grip configuration taught by Schoelling to provide the predictable result of creating a clearly defined finger grip area. Applicants respectfully disagree.

Voss provides "The preferred plunger 13 takes the form of a generally tubular or hollow cylindrical wall 30 which is of uniform diameter throughout and has an outer diameter corresponding to the inner diameter at the leading end of the wall 15 of the applicator tube. Further, the locator means 28 on the inner wall surface of the tube 12 are dimensioned so as to define an inner effective diameter at the trailing end of the tube 12 corresponding to the outer diameter of the wall 30." (col. 5, lines 18-26). Voss further states that "The plunger as it approaches the leading end of the tube 12 will advance in close-fitting relation along the inner wall surface of the tube so as to insure complete removal and ejection of the suppository through the leading end of the tube until the plunger reaches a point such that its leading end occupies the space within the segmental end of the tube and specifically with the squared end surface 39 disposed opposite to the tips 20." (col. 5, lines 57-64). Thus, the plunger of Voss must be wide enough to be in close-fitting relation along the inner wall surface of the tube. Accordingly, Voss teaches away from a finger grip with a guide shank 28 having a reduced diameter as shown by Schoelling.

Further, guide shank 28 of Schoelling would require a plunger that has a smaller diameter than the inner wall surface of the tube of Voss that would permit its leading end to move within the tube that could become misaligned resulting in its leading end not occupying the space within the segmental end of the tube to eject the suppository as required by Voss.

Accordingly, Applicants respectfully submit that the cited combination of Voss

and Schoelling would alter Voss contrary to the express statements in Voss, and, thus, clearly fails to disclose or suggest independent claim 11. As such, claim 11, as well as claims 12 – 20, 44, 46, and 47 that depend therefrom, are patentable over that the cited combination of Voss and Scheolling for at least the reasons described above for independent claim 11.

In addition, dependent claim 14 recites that “said tapered main section has a main section taper ratio of about 1.07 to about 1.15”.

Dependent claim 15 recites that “said tapered main section taper ratio is about 1.08 to about 1.13”.

The Office Action asserts that the taper of the barrel of Voss is shown in Figure 1 as being very gradual, and it would therefore be obvious to one of ordinary skill in the art at the time of the invention to provide the applicator barrel of Voss with a taper ratio of about 1.08 to about 1.13 to provide a gradual taper to the barrel. Applicants respectfully disagree.

As discussed above, the preferred, uniform diameter plunger of Voss must be wide enough to be in close-fitting relation along the inner wall surface of the tube. Accordingly, Voss teaches away from a gripping region that has a smaller diameter than the tapered main section, as recited by claim 11. Moreover, a gripping region that has a smaller diameter than the tapered main section, as recited by claim 11, would require a plunger that has a smaller diameter than the inner wall surface of the tube of Voss. A plunger that has a smaller diameter than the inner wall surface of the tube of Voss permits a leading end to move within the tube so that it becomes misaligned resulting in its leading end not occupying the space within the segmental end of the tube to eject the suppository as required by Voss. In contrast, paragraph [0027] of the present application provides as plunger 16 moves in the direction of arrow 32, the plunger can urge pledget 12 into petals 30 until the petals open and the pledget is expelled from barrel 14 through first end 26. Accordingly, the tapered main section that has a main section taper ratio of about 1.07 to about 1.15 or about 1.08 to about 1.13 and a

gripping region that has a smaller diameter than the tapered main section, as recited by claim 11, provides adequate stability and positioning for the plunger that has a smaller diameter than the tapered main section to urge the pledget into petals until the petals open and the pledget is expelled from barrel through first end.

Therefore, it would not have been obvious to one of ordinary skill in the art at the time of the invention to provide the applicator barrel of Voss with a taper ratio of about 1.08 to about 1.13, absent a gripping region that has a smaller diameter than the tapered main section, as recited by claim 11, to provide a gradual taper to the barrel.

Reconsideration and withdrawal of the rejection to claims 11 – 20, 44, 46, and 47 are respectfully requested.

Claims 21 – 24, 26 – 33, 35 – 40, and 42 – 45 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Voss. Claims 21 – 24, 26 – 30, 32, 33, 35, 36, 38 – 40, 42, 43, and 45 are canceled rendering the rejection thereto moot. For at least the reasons set forth below, Applicants submit that claims 31, 37, and 44 are not disclosed or suggested by Voss.

As discussed above, Voss fails to disclose or suggest that a shoulder region adjacent to the tapered main section, a gripping region adjacent to the shoulder region, and a flared region adjacent to the gripping region opposite the shoulder region, or that the barrel decreases in diameter in the shoulder region from the tapered main section to the gripping region so that the gripping region has a smaller diameter than the tapered main section, as recited by claim 11.

Accordingly, Applicants respectfully submit that Voss fails to disclose or suggest the features of independent claim 11. As such, claim 11, as well as claims 31, 37, and 44 that depend therefrom, are patentable over Voss. Reconsideration and withdrawal of the rejection are respectfully requested.

New dependent claim 48 recites that the plunger has a plunger main body

portion between a plunger first end and a plunger second end, and that the plunger main body portion has a plunger main body diameter that is less than the diameter of the gripping region so that the plunger main body portion is movable through the gripping region to expel the pledget from the barrel.

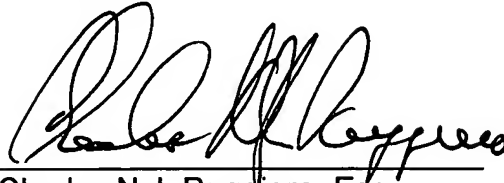
Applicants respectfully submit that neither Voss nor Schoelling, nor the combination of same, disclose or suggest that the plunger main body diameter is less than the diameter of the gripping region so that the plunger main body portion is movable through the gripping region to expel the pledget from the barrel, as recited by claim 48. As discussed above, Voss teaches away from a gripping region that has a smaller diameter than the tapered main section. Moreover, Voss fails to disclose or suggest that the plunger main body diameter is less than the diameter of the gripping region so that the plunger main body portion is moveable through the gripping region to expel the pledget from the barrel, as recited by claim 48. Rather, as discussed above, a plunger that has a smaller diameter, as suggested by Schoelling to modify Voss, than the inner wall surface of the tube of Voss would permit its leading end to move within the tube to become misaligned resulting in its leading end not occupying the space within the segmental end of the tube to eject the suppository as required by Voss.

Applicants respectfully submit that new claims 49-51 depend from claim 11, and, are patentable over the cited references for at least the reasons described above for claim 11.

In view of the above, it is respectfully submitted that the present application is in condition for allowance. Such action is solicited.

If for any reason the Examiner feels that consultation with Applicants' attorney would be helpful in the advancement of the prosecution, the Examiner is invited to call the telephone number below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Charles N.J. Ruggiero", written over a horizontal line.

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